

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

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SPECIAL CIVIL APPLICATION No 5295 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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DEPUTY EXECUTIVE ENGINEER                      ROADS & BUILDING (PANCHAYAT)

Versus

SALIM KHAN S PATHAN                      C/O S'KANTHA GENERAL MAZDOOR

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Appearance:

MR AMIT M PANCHAL for Petitioner

MR DJ BHATT for Respondent No. 1

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 22/07/97

ORAL JUDGEMENT

Rule. Mr. Bhatt waives the service of the Rule on behalf of respondent.

This Special Civil Application is directed against the impugned Award dated 31.3.94 passed by the Labour Court, Ahmedabad in Reference (LCA) No.344/91 whereby the relief of reinstatement with continuity of service and full backwages was granted to the workman

read with the ultimate order passed by the Labour Court, Himatnagar in Misc. Application No.23/96 on 20.3.97 whereby the petitioner's application for recalling the ex parte order was rejected.

The matter was heard for some time. After hearing both the sides, on the basis of the consensus arrived at between the parties through their respective counsel the following order is passed:

- (1) The respondent-workman shall be reinstated forthwith but in no case later than 1.8.97 and such orders shall be immediately communicated to the workman and he will be called upon to join the services under the petitioner.
- (2) The relief of backwages shall not be pressed by the workman at this stage.
- (3) Whereas the Award had been passed ex parte against the Panchayat, the matter may be remanded back to the concerned Labour Court for trial afresh after hearing both the sides.
- (4) The continuance of the workman in the service, continuity of service as if the services were not terminated and the relief with regard to the backwages etc. shall be subject to the final outcome of the Award, which may be passed by the Labour Court in the remanded proceedings.

The impugned Award dated 31.3.94 passed by the 2nd Labour Court, Ahmedabad in Reference (LCA) No.344/91 is hereby modified accordingly. The order dated 20.3.97 passed by the Labour Court, Himatnagar in Misc. Application No.23/96 is hereby quashed and set aside and the matter is remanded to the Labour Court at Himatnagar for adjudication of the Reference afresh. This Special Civil Application is partly allowed in the terms as above and Rule is also made absolute in the terms as above with no order as to costs.